IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1265 (M/S) of 2004

1. Mahendra Singh,
   S/o Sri Balwant Singh,
2. Raj Singh,
   S/o Sri Mahendra Singh,

Both resident of Village – Najimabad,
Tehsil – Kichha, District – Udham Singh Nagar.

... Petitioners

Versus

1. Civil Judge, Senior Division, Udham Singh Nagar.
2. State of Uttaranchal, through Collector, Udham Singh Nagar.
3. Divisional Forest Officer, Tarai East, Forest Department, Haldwani, District- Nainital.

... Respondents

Sri Vijay Bhatt, learned counsel for the petitioners.
Learned Standing Counsel for the State.

Hon'ble M.M. Ghildiyal, J

Heard Sri Vijay Bhatt learned counsel for the petitioners and learned Standing Counsel for the respondents.

Learned counsel for both the parties are agreed that the writ petition may be decided at its admission stage itself.

By means of this petition, the petitioners have prayed for setting aside the order dated 8.11.2004 passed

by Civil Judge (Senior Division) Udham Singh Nagar by which he has rejected the application dated 31.3.2003 moved by the petitioner under Order 39 Rule 2 A of Code of Civil Procedure.

I find no infirmity in the order passed by the Civil Judge (Senior Division) Udham Singh Nagar. Learned counsel for the petitioners has submitted that he has already moved an application under Section 151 CPC before Civil Judge (Senior Division) Udham Singh Nagar to give police protection, which is Annexure No. 5 to the writ petition. The arguments have already been heard on the aforesaid application but no order has been passed by the Trial Court.

The Trial Court is directed to decide that application under Section 151 moved by the petitioner (annexure no. 5 to the writ petition) within a period of two weeks from the date of production of certified copy of this order if already has not yet decided.

With this direction the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

December 04, 2004
S.K. Sharma